

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,

Plaintiff,

VS.

2K GAMES, INC. and TAKE-TWO
INTERACTIVE SOFTWARE, INC.,

Defendants.

Case No. 1:17-cv-02635

Judge Christopher A. Boyko

**EX. D TO TRIAL BRIEF—
PLAINTIFF’S PROPOSED SPECIAL
INTERROGATORIES AND VERDICT
FORMS**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,)	Case No. 1:17-cv-02635
)	
Plaintiff,)	Judge Christopher A. Boyko
)	
vs.)	
)	<u>INTERROGATORY NO. 1</u>
2K GAMES, INC. and TAKE-TWO)	
INTERACTIVE SOFTWARE, INC.,)	
)	
Defendants.)	

DO YOU FIND BY A PREPONDERANCE OF THE EVIDENCE THAT DEFENDANTS' COPYING OF THE ASSERTED TATTOOS TRANSFORMED THEM?

Yes

No

If you answered "Yes" to Interrogatory No. 1 proceed to Interrogatory No. 2.

If you answered "No" to Interrogatory No. 1 proceed to Interrogatory No. 3.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES HAYDEN,)	Case No. 1:17-cv-02635
)	
Plaintiff,)	Judge Christopher A. Boyko
)	
vs.)	
)	<u>INTERROGATORY NO. 2</u>
2K GAMES, INC. and TAKE-TWO)	
INTERACTIVE SOFTWARE, INC.,)	
)	
Defendants.)	

IN CONSIDERING THE PURPOSE AND CHARACTER OF DEFENDANTS' USE OF THE
ASSERTED TATTOOS, WHICH DO YOU FIND BY A PREPONDERANCE OF THE
EVIDENCE IS GREATER: DEFENDANTS' TRANSFORMATIVE USE OR DEFENDANTS'
COMMERCIAL PURPOSE?

Transformative Use

Commercial Purpose

Proceed to Interrogatory No. 3.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,)	Case No. 1:17-cv-02635
)	
Plaintiff,)	Judge Christopher A. Boyko
)	
vs.)	
)	<u>INTERROGATORY NO. 3</u>
2K GAMES, INC. and TAKE-TWO)	
INTERACTIVE SOFTWARE, INC.,)	
)	
Defendants.)	

DO YOU FIND BY A PREPONDERANCE OF THE EVIDENCE THAT THERE IS AN
EXISTING OR POTENTIAL MARKET FOR LICENSING THE ASSERTED TATTOOS?

Yes

No

If you answered “Yes” to Interrogatory No. 3, proceed to Interrogatory No. 4.

If you answered “No” to Interrogatory No. 3, proceed to Interrogatory No. 5.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,)	Case No. 1:17-cv-02635
)	
Plaintiff,)	Judge Christopher A. Boyko
)	
vs.)	
)	<u>INTERROGATORY NO. 4</u>
2K GAMES, INC. and TAKE-TWO)	
INTERACTIVE SOFTWARE, INC.,)	
)	
Defendants.)	

DO YOU FIND BY A PREPONDERANCE OF THE EVIDENCE THAT DEFENDANTS' COPYING AND DISTRIBUTION OF COPIES OF THE ASSERTED TATTOOS WITHOUT MR. HAYDEN'S PERMISSION HARMS THE EXISTING OR POTENTIAL MARKET FOR LICENSING THE ASSERTED TATTOOS?

Yes

No

Proceed to Interrogatory No. 5.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,

Plaintiff,

vs.

2K GAMES, INC. and TAKE-TWO
INTERACTIVE SOFTWARE, INC.,

Defendants.

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Case No. 1:17-cv-02635

Judge Christopher A. Boyko

INTERROGATORY NO. 5

DO YOU FIND BY A PREPONDERANCE OF THE EVIDENCE THAT DEFENDANTS'
COPYING AND DISTRIBUTION OF COPIES WAS WILLFUL?

Yes

No

Proceed to Interrogatory No. 6.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,)	Case No. 1:17-cv-02635
)	
Plaintiff,)	Judge Christopher A. Boyko
)	
vs.)	
)	<u>INTERROGATORY NO. 6</u>
2K GAMES, INC. and TAKE-TWO)	
INTERACTIVE SOFTWARE, INC.,)	
)	
Defendants.)	

DO YOU FIND BY A PREPONDERANCE OF THE EVIDENCE THAT DEFENDANTS' COPYING IN EACH ACCUSED GAME WERE SEPARATE ACTS OF INFRINGEMENT?

Yes

No

Proceed to General Jury Verdict Form.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

JAMES HAYDEN,

Plaintiff,

vs.

2K GAMES, INC. and TAKE-TWO
INTERACTIVE SOFTWARE, INC.,

Defendants.

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Case No. 1:17-cv-02635

Judge Christopher A. Boyko

GENERAL JURY VERDICT FORM

1. Do you find that Defendants have proven by a preponderance of the evidence that their copying of the Asserted Tattoos is *de minimis*?

No _____ (for Plaintiff)

Yes _____ (for Defendant)

2. Do you find that Defendants have proven by a preponderance of the evidence that their copying was authorized by Plaintiff?

No _____ (for Plaintiff)

Yes _____ (for Defendant)

3. Do you find that Defendants have proven by a preponderance of the evidence that Plaintiff waived his right to enforce his copyrights?

No _____ (for Plaintiff)

Yes _____ (for Defendant)

If your answer to any of Questions 1–3 is “yes,” then do not answer any additional questions and proceed to the end of the verdict form (next page). If not, proceed to Question 4.

4. Defendants' Profits Damages: Identify the amount of Defendants' profits that are attributable to Defendants' infringement of Plaintiff's copyrights.

\$_____

You have reached the end of the General Verdict Form. Each juror should place his or her signature on the lines below to attest that the foregoing accurately reflects the jury's decision.

Foreperson
